

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

COMPUWARE CORPORATION,

Plaintiff-Appellant,

v.

MOODY'S INVESTORS SERVICES, INC.,

Defendant-Appellee.

No. 05-1851

Appeal from the United States District Court
for the Eastern District of Michigan at Detroit.
No. 03-70247—John Feikens, District Judge.

Argued: December 6, 2006

Decided and Filed: August 23, 2007

Before: BATCHELDER, GILMAN, and ROGERS, Circuit Judges.

COUNSEL

ARGUED: Mary Massaron Ross, PLUNKETT & COONEY, Detroit, Michigan, for Appellant. James J. Coster, Joshua M. Rubins, SATTERLEE, STEPHENS, BURKE & BURKE, New York, New York, for Appellee. **ON BRIEF:** Mary Massaron Ross, PLUNKETT & COONEY, Detroit, Michigan, for Appellant. James J. Coster, Joshua M. Rubins, SATTERLEE, STEPHENS, BURKE & BURKE, New York, New York, for Appellee.

BATCHELDER, J., delivered the opinion of the court, in which GILMAN, J., joined. ROGERS, J. (pp. 13-15), delivered a separate opinion concurring in part and dissenting in part.

OPINION

ALICE M. BATCHELDER, Circuit Judge. Plaintiff-Appellant Compuware Corporation (“Compuware”) appeals the district court’s grant of summary judgment in favor of Defendant-Appellee Moody’s Investors Services Inc. (“Moody’s”) on Compuware’s claims of defamation and breach of contract. The district court found that Compuware needed to establish actual malice to succeed on both claims, and that Compuware failed to make the requisite showing of actual malice. On appeal, Compuware argues that it presented sufficient evidence of Moody’s actual malice to withstand summary judgment and that, in any event, the actual-malice standard should not apply to its breach of contract claim. After careful consideration, we **AFFIRM**.

